REMARKS

In the Office Action,[1] the Examiner rejected claims 1, 8, and 15 under 35 U.S.C.

§ 103(a) as being unpatentable over U.S. Patent No. 6,594,683 to Furlani et al.

("*Furlani*") in view of "Multi-Axial Subassemblage Testing System (MAST) Data

Collection and Telepresence Systems Specification," by Daugherty et al., A Report from

the National Science Foundation, George E. Brown, Jr. Network for Earthquake

Engineering Simulation (NEES), Department of Civil Engineering, Institute of

Technology, University of Minnesota, July 15, 2002 ("*Daugherty*"); rejected claims 2-7,

9-14, and 16-21 under 35 U.S.C. § 103(a) as being unpatentable over *Furlani* in view of

Daugherty and U.S. Patent No. 5,548,750 to Larsson et al. ("*Larsson*"); and rejected

claims 22-26 under 35 U.S.C. § 103(a) as being unpatentable over *Larsson* in view of

Daugherty.

I.   Rejection of Claims 1, 8, and 15 under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 1, 8, and 15 under

35 U.S.C. § 103(a) as being unpatentable over *Furlani* in view of *Daugherty*. A *prima*

facie case of obviousness has not been established.

"The key to supporting any rejection under 35 U.S.C. § 103 is the clear

articulation of the reason(s) why the claimed invention would have been obvious."

M.P.E.P. § 2142(III) (8th Ed., Rev. 7, July 2008). "[T]he framework for objective

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[1] The Office Action contains a number of statements reflecting characterizations of the related art, the claims, and case law. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

analysis for determining obviousness under 35 U.S.C. § 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). . . . The factual inquiries . . . are as follows:

(A) [Determining the scope and content of the prior art;]

(B) Ascertaining the differences between the claimed invention and the prior art; and

(C) Resolving the level of ordinary skill in the pertinent art."

M.P.E.P. § 2141(II). "Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." M.P.E.P. § 2141(III).

Independent claim 1 recites a method comprising, for example, "determining whether the data object is being archived by checking whether the ID is stored in a first lock object."

Applicants have previously established that *Furlani* fails to teach or suggest "determining whether the data object is being archived by checking whether the ID is stored in a first lock object," as recited in claim 1. *See* Amendment, filed May 12, 2008, pp. 9-11. Nonetheless, Applicants repeat and summarize the previous arguments below.

Furlani is silent with respect to any archiving. Therefore, Furlani fails to teach or suggest "determining whether the data object is being archived," as recited in claim 1.

Furthermore, in *Furlani*, group lock object 303 <u>always</u> stores the LockObject ID 325. *See Furlani*, Fig. 3. *Furlani* is completely silent with respect to LockObject ID 325

not being stored in the group lock object 303. Therefore, *Furlani* fails to teach or suggest "checking whether the ID is stored in a first lock object," as recited in claim 1 (emphasis added).

As explained above, *Furlani* fails to teach or suggest "determining whether the data object is being archived by checking whether the ID is stored in a first lock object," as recited in claim 1. The Examiner attempts to cure the deficiencies of *Furlani* by citing *Daugherty*. However, *Daugherty* does not compensate for the deficiencies of *Furlani*.

Daugherty discloses "[l]aboratory systems . . . stor[ing] . . . properties . . . includ[ing] . . . whether data is currently being archived." *Daugherty*, p. 11. However, *Daugherty* fails to disclose how "whether data is currently being archived" is indicated and stored. Because *Daugherty* is silent with respect to any "ID" of a data object or any "lock object" storing the ID, *Daugherty* fails to teach or suggest "determining whether the data object is being archived by checking whether the ID is stored in a first lock object," as recited in claim 1 (emphasis added). Therefore, *Daugherty* fails to cure the deficiencies of *Furlani*.

For at least the foregoing reasons, the scope and content of the prior art have not been properly determined, and the differences between the prior art and claim 1 have not been properly ascertained. Accordingly, no reason has been clearly articulated as to why the prior art would have rendered claim 1 obvious to one of ordinary skill in the art. Therefore, a *prima facie* case of obviousness has not been established with respect to claim 1.

Moreover, *Daugherty* is not analogous art and, thus, improperly applied to this § 103 rejection. "Under the correct analysis, any need or problem known in the field of endeavor at the time of the invention and addressed by the [references at issue] can provide a reason for combining the elements in the manner claimed." M.P.E.P. § 2141.01(a) (quoting *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 U.S.P.Q.2d 1385, 1397 (2007)). No such need or problem known in the field of endeavor is addressed by the cited references.

A "need or problem known in the field of endeavor," as mentioned in *KSR*, for this application includes the need or the problem of "controlling access to a data object." *See* Applicants' title and abstract. *Daugherty* fails to address the need or the problem of the present invention. *Daugherty* merely mentions the "archiving [of] data" and storing properties including "whether data is currently being archived." *See Daugherty*, p. 11. However, *Daugherty* fails to describe archiving in relation to controlling access to data objects. In other words, *Daugherty* only utilizes known data archiving techniques but fails to address or solve any need or problem associated with data archiving. Therefore, *Daugherty* fails to address the need or problems known in the field of data moving.

Furthermore, "a reference in a field different from that of applicant's endeavor may be reasonably pertinent if it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his or her invention as a whole." M.P.E.P. § 2141.01(a). However, such an exception does not apply here.

"[T]he present invention relates to . . . data moving." Applicants' specification, p. 1, para. 002. *Daugherty* relates to "large-scale earthquake experimentation" and "apply[ing] realistic cyclic static states of deformations and loading to large-scale structural test specimens." *Daugherty*, p. i, abstract. Accordingly, *Daugherty* is in a field different from that of Applicants'. Moreover, *Daugherty* is not pertinent because it is not reasonable that *Daugherty*, which relates to earthquake simulation, would commend itself to the attention of an inventor considering the problem of data archiving.

For at least the above reasons, *Daugherty* is nonanalagous art, and the Examiner has failed to establish a *prima facie* case of obviousness for at least this additional reason.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 1, 8, and 15 under 35 U.S.C. § 103(a).

II.   Rejection of Claims 2-7, 9-14, and 16-21 under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 2-7, 9-14, and 16-21 under 35 U.S.C. § 103(a) as being unpatentable over *Furlani* in view of *Daugherty* and *Larsson*. A *prima facie* case of obviousness has not been established.

As established above, *Furlani* and *Daugherty* fail to disclose or suggest "determining whether the data object is being archived by checking whether the ID is stored in a first lock object," as recited in independent claim 1, and required by dependent claims 2-7. *Larsson* fails to cure the deficiencies of *Furlani* and *Daugherty*. That is, *Larsson* also fails to teach or suggest "determining whether the data object is

being archived by checking whether the ID is stored in a first lock object," as recited in independent claim 1, and required by dependent claims 2-7.

For at least the foregoing reasons, the scope and content of the prior art have not been properly determined, and the differences between the prior art and claims 2-7 have not been properly ascertained. Accordingly, no reason has been clearly articulated as to why the prior art would have rendered claims 2-7 obvious to one of ordinary skill in the art.

Furthermore, as established above, *Daugherty* is nonanalogous art and was improperly applied to this rejection.

Therefore, a *prima facie* case of obviousness has not been established with respect to claims 2-7. In addition, claims 9-14 and 16-21, depend from independent claims 8 and 15, respectively. Claims 9-14 and 16-21 are allowable at least due to their dependence. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 2-7, 9-14, and 16-21 under 35 U.S.C. § 103(a).

III.   Rejection of Claims 22-26 under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 22-26 under 35 U.S.C. § 103(a) as being unpatentable over *Larsson* in view of *Daugherty*. A *prima facie* case of obviousness has not been established.

Applicants have previously established that *Larsson* fails to teach or suggest "a first lock object storing the ID . . . , wherein the storage of the ID in the first lock object indicates that the data object is being archived," as recited in claim 22. *See*

Amendment, filed May 12, 2008, pp. 11-12. Nonetheless, Applicants repeat and summarize the previous arguments below.

In *Larsson*, a BackupSynch variable set to "exclude" indicates that a database has not reached a commit state because the transaction log still contains transactions that have not yet reached the commit phase. *Larsson*, col. 5, lines 38-43. Nothing in *Larsson* "indicates that the data object is being archived," as recited in claim 22. Therefore, *Larsson* fails to teach or suggest "a first lock object storing the ID . . . , wherein the storage of the ID in the first lock object indicates that the data object is being archived," as recited in claim 22.

As mentioned above, *Daugherty* is silent with respect to any "ID" or any "lock object" storing the ID. Therefore, *Daugherty* fails to teach or suggest "a first lock object storing the ID . . . , wherein the <u>storage of the ID in the first lock object indicates</u> that the data object is being archived," as recited in claim 22 (emphasis added). Therefore, *Daugherty* fails to cure the deficiencies of *Larsson*.

For at least the foregoing reasons, the scope and content of the prior art have not been properly determined, and the differences between the prior art and claim 22 have not been properly ascertained. Accordingly, no reason has been clearly articulated as to why the prior art would have rendered claim 22 obvious to one of ordinary skill in the art.

Furthermore, as established above, *Daugherty* is nonanalogous art and, thus, was improperly applied to this rejection.

Therefore, a *prima facie* case of obviousness has not been established with respect to claim 22. In addition, dependent claims 23-26 are allowable at least due to their dependence from allowable base claim 22. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 22-26 under 35 U.S.C. § 103(a).
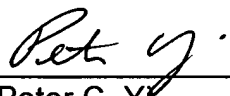
CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: October 28, 2008   By:_____

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